

# MEMORANDUM

Agenda Item No. 7(E)(1)(A)

**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** April 13, 2004

**FROM:** George M. Burgess  
County Manager

**SUBJECT:** Administrative Order 4-86  
Worthless Checks

## RECOMMENDATION

It is recommended that the Board approve the attached Administrative Order 4-86 which relates to a county-wide policy governing the collection on dishonored checks, defines departmental responsibilities in the administration of these procedures, and corrects scrivener's errors.

## BACKGROUND

On July 23, 1991 the Board approved A.O. 4-86 related to a county-wide policy governing the collection of a service charge on dishonored checks as authorized by State Legislature to recover a portion of the costs for handling dishonored checks.

The intent of this Administrative Order is to adjust and set forth fees, as authorized by Section 68.065 of the Florida Statutes to increase the service charge imposed by the County from \$15.00 or 5% of the face amount of the check (whichever is greater) to \$25.00 or 5% of the face amount of the check (whichever is greater).

Also included as part of this Administrative Order, is the language suggested for use by the County departments to facilitate the preparation for the collection of this service charge. The Administrative Order details civil or criminal charges that can be filed and the prosecution that can ensue if the maker of a worthless check does not comply with the notice requirements.

This Administrative Order was reviewed by the County Attorney's Office and the Finance Department and their input was incorporated into the attached Administrative Order. With your approval, this Administrative Order will supersede the previous Administrative Order placing into effect a County-wide procedure as approved by State Legislature.

  
\_\_\_\_\_  
Assistant County Manager



# MEMORANDUM

(Revised)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** April 13, 2004

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 7(E)(1)(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7 (E) (1) (A)  
4-13-04

RESOLUTION NO.

RESOLUTION APPROVING AMENDMENTS TO  
ADMINISTRATIVE ORDER 4-86: WORTHLESS  
CHECKS

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanied memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the amendments to Administrative Order 4-86: Worthless Checks.

The foregoing resolution was offered by Commissioner

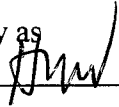
, who moved its adoption. The motion was seconded by  
Commissioner and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 13th day of April, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency. 

Howard W. Whitaker

By: \_\_\_\_\_  
Deputy Clerk

A.O. No.: 4-86  
Ordered:  
Effective:

MIAMI-DADE COUNTY  
ADMINISTRATIVE ORDER

WORTHLESS CHECKS

**AUTHORITY:**

Section 4.02 of the Miami-Dade County Home Rule Charter, as amended, and Section 68.065 of the Florida Statutes.

**SUPERSEDES:**

This Administrative Order ~~supersedes previous Resolution R-322-88, dated March 15, 1988,~~ supersedes previous Administrative Order 4-86 ordered July 23, 1991, and effective July 23, 1991.

**POLICY:**

It is the policy of Miami-Dade County to continue to accept checks from the public, drawn only on United States banks in United States currency with the drawer's name and address imprinted on the checks, for payment of fees, fines and charges, and to invoke any and all available penalties, service fees, service charges, or civil actions when checks are dishonored.

**CHECK CONSIDERED CONDITIONAL PAYMENT:**

The receipt of a check is considered to be a conditional payment until it is honored by the drawer's bank. If the check fails to clear the bank for any reason, it is considered a non-payment and automatically invalidates any business license, permit, tax, ~~permit~~ or tag. The account for which the payment was made would be delinquent and subject to all late charges and penalties relevant thereto, in addition to the service charges and/or service fees authorized by Sections 68.065 and 125.0105, Florida Statutes, as well as criminal actions, pursuant to Section 832.07, Florida Statutes.

**PROCEDURE:**

The Bank Reconciliation Unit of the Finance Department forwards all dishonored checks to the corresponding department. Each department that receives such dishonored checks ~~from the Finance Department~~ is responsible for their subsequent collection. Only when departments are unable to collect on dishonored checks within 60 days of their receipt shall they forward the checks and all relevant information to the Credit and Collection Section of the Finance Department for collection (except those departments that are reimbursed for worthless checks by the State of Florida).

## RETURNED CHECK JOURNAL:

Each department shall maintain a returned check journal to contain, at a minimum, the maker, check number, date of check, reason tendered, amount and status of the check, and the official County receipt number associated with the check.

## SERVICE CHARGE AND/OR SERVICE FEE ASSESSMENT:

In order for Miami-Dade County to recover a portion of the costs for handling dishonored checks, the following shall apply:

1. County departments and divisions that collect taxes, fees, fines, or charges as agents for the State of Florida (Highway Safety and Motor Vehicles; Department of Natural Resources; Department of Revenue; Division of Alcoholic Beverages and Tobacco, Department of Business Regulations; and Game and Fresh Water Fish Commission) may charge the maker of a worthless check a minimum service charge of ~~\$15.00~~ \$25.00 or 5% of the face amount of the check (whichever is greater), as authorized by Section 68.065, Florida Statutes.
2. County departments and divisions that collect taxes, fees, fines, or charges solely on behalf of the County may charge the maker of a worthless check a minimum service fee of ~~\$15.00~~ \$25.00 or 5% of the face amount of the check (whichever is greater), pursuant to Section 125.0105, Florida Statutes, **in addition** to the service charge authorized by Section 68.065, Florida Statutes.

## COLLECTION OF SERVICE FEE AND/OR SERVICE CHARGE:

In order to collect the service fee and/or service charge set forth above, the County departments must send out a notice, by certified or registered mail, return receipt requested, stating as follows the following:

"You are hereby notified that check number \_\_\_\_\_, in the face amount of \$ \_\_\_\_\_, issued by you on \_\_\_\_ (date) \_\_, drawn upon (name of Bank), and payable to \_\_\_\_ (name of payee) \_\_, has been dishonored. Pursuant to Florida Statute 832.07, you have **SEVEN (7) DAYS** from receipt of this notice to tender the full amount of such check plus a minimum service charge as follows:

- \$25.00 if the face value does not exceed \$50.00;
- \$30.00 if the face value exceeds \$50.00 but does not exceed \$300.00;
- \$40.00 if the face value exceeds \$300.00;
- or an amount of up to 5% of the face amount of the check, whichever is greater.

Therefore, the total amount due at this time is \$ \_\_\_\_\_. Unless this amount is paid in full within **SEVEN (7) DAYS**, the County may turn over the dishonored check and all other available information relating to this incident to the State Attorney for **CRIMINAL PROSECUTION**.

In addition, pursuant to Florida law Statute 68.065, you have **THIRTY** (30) days from receipt of this notice to tender payment in cash of for the full amount of such check, plus a minimum service fee of as follows:

- \$15.00 or 5% ~~25.00~~ [if collecting solely on behalf of the county] plus a service charge of (\$15.00 or 5%), if the face value does not exceed \$50.00;
- \$30.00 if the face value exceeds \$50.00 but does not exceed \$300.00;
- \$40.00 if the face value exceeds \$300.00;
- or an amount of up to 5% of the face amount of the check, whichever is greater.

Therefore, the total amount due at this time is \$\_\_\_\_\_ and \_\_\_\_\_cents.  
Unless this amount is paid in full in cash within the 30-day period, a civil action may be filed the County may file a **CIVIL ACTION** against you for three times the amount of the check, but in no case less than \$50.00, in addition to the payment of the check, plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action.

Please make your remittance payable to the BOARD OF COUNTY COMMISSIONERS, and mail it to the above address, ATTN: (Department/Unit name) .

ONLY CASH (in person), CASHIER'S CHECK OR A MONEY ORDER WILL BE ACCEPTABLE. PLEASE RETURN A COPY OF THIS LETTER WITH YOUR REMITTANCE."

### **CRIMINAL ACTION:**

County departments and divisions that may wish to file criminal charges against the maker of a worthless check must add the following language to the foregoing notice, pursuant to Florida Statute 832.07:

"Additionally, if the face amount of the check plus a minimum service charge of \$15.00~~25.00~~ (or 5%), totaling \$\_\_\_\_\_, have not been paid in full in cash within seven (7) days from receipt of this notice, the dishonored check and all other available information relating to this incident may be turned over to the sState aAttorney for criminal prosecution."

### **REPLACEMENT PAYMENT FOR DISHONORED CHECK:**

Departments that receive a check not honored by the drawer's bank will require reimbursement to the County, plus all associated penalties, service charges and/or service fees in the form of a cashier's or certified check, money order, or cash.

### **SUBSTITUTION OF CHECKS FOR CASH:**

Employees shall not substitute any checks received for cash. In addition, no checks are to be cashed at any County facility.

**REFUND FOR REFUNDABLE CHECK DEPOSITS:**

No refunds shall be made for refundable check deposits until at least 15 working days after the deposit date.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

~~Joaquin Avino~~  
George M. Burgess  
County Manager